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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,658	10/28/2003	Donald F. Gordon	007412.00275	4003
71/867 7590 05/28/2009 BANNER & WITCOFF, LTD ATTORNEYS FOR CLIENT NUMBER 007412 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER				
BROWN, RUEBEN M				
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05/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,658

Applicant(s)

GORDON ET AL.

Examiner

REUBEN M. BROWN

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-20 and 22-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 15-20 and 22-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date 2/20/09: 3/4/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-18 & 31-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aristides, (U.S. Pat # 5,630,119), in view Eyer, (U.S. Pat # 5,801,753).

Considering claim 15, the claimed method of providing a plurality of programs to at least one information subscriber equipment, comprising;

*forming, for a first plurality of channels, a first program guide information stream, such that the first program guide information stream comprising video representation of programming offered by each of the plurality of channels during a predetermined period, wherein the program

guide information stream includes video objects associated with respective parameters', is met by the disclosure of Aristides that teaches an EPG data stream transmitted from the server to the subscriber, in response to a subscriber request, col. 4, lines 50-67; col. 5, lines 40-59. Aristides provides an example of a subscriber making a request for EPG data (which reads on the claimed 'program guide information...') for a time period of 9:30-10:00 (which reads on the claimed 'predetermined time period'). As a result of this request, the headend retrieves and transmits EPG data for programs that overlap with instant time period, using a bucket number technique, which still reads on the claimed subject matter. Since MPEG data is video and the channel are selectable units, the claimed video objects is met by the reference.

'forming, for a second plurality of channels, a first program guide information stream, such that the first program guide information stream comprising video representation of programming offered by each of the plurality of channels during a predetermined period, wherein the program guide information stream includes video objects associated with respective parameters...the second program guide video objects arranged substantially the same manner as the first program guide information objects', the claimed additional limitation is met by any subsequent request for a EPG data in a time period, as disclosed by Aristides. Aristides anticipates that over time, a subscriber will request EPG covering different time period(s) and different lists or groups of channels.

'providing the first and second program guide information streams to the consumer, such that they are temporarily aligned according to the predetermined time' Aristides does not

specifically discuss that the information streams are temporally aligned. However, Eyer provides a teaching wherein EPG data is transmitted first as trickle data stream, and then as demand data stream is delivered to the customer. Particularly, the EPG information for the current time period is followed by the EPG information for the upcoming time period(s), see col. 5, lines 49-65; col. 6, lines 14-65. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Aristides with the technique of providing different EPG streams temporally aligned, for the desirable advantage of providing the EPG information to the subscriber in a more timely manner, as taught by Eyer, col. 1, lines 5-68.

Considering claim 16-17, 35 & 38, the claimed feature of contextually related program guide information reads on the disclosure of Aristides that EPG data may be grouped and indexed for retrieval, col. 5, lines 15-56. Eyer discusses that the data may be repeated, col. 13, lines 25-; col. 17, lines 1-35.

Considering claim 18, the claimed subject matter is met by the trickle data and demand data, as logical streams, multiplexed together as a single physical stream, col 6, lines 14-35.

Considering claims 31-33 & 36, the claimed subject matter is met by the combination of Aristides (col. 4, lines 49-64; col. 6, lines 19-61) & Eyer (col. 6, lines 5-45).

Considering claims 34 & 37, the claimed apparatus , comprising elements that correspond with subject matter mentioned above in the rejection of claim 15, is likewise treated. As for the additionally claimed processor & memory, both Aristides (Fig. 1; col. 4, lines 29-55; Fig. 5; col. 5, lines 61-67) & Eyer (col. 5, lines 31-61; col. 12, lines 51-67 thru col. 13, lines 1-25) meets the language.

4. Claims 19-20 & 22-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aristides & Eyer, further in view of Hendricks, (U.S. Pat # 5,734,853).

Considering claim 19, the claimed system providing a plurality of programs to at least one consumer, comprising elements that correspond with subject matter mentioned above in claim 15, are likewise treated.

As for the additionally claimed, 'selecting in response to a user interaction a first time period of interest, and identifying a first physical channel including program guide information associated with a first time period of interest' reads on the disclosure of both Aristides & Eyer, win which the subscriber selects time period(s) for EPG data.

Regarding the further claimed, 'retrieving from memory a graphic overlay, comprising graphic objects each of the plurality of graphic objects having a predefined position visually

cooperative with a display position of a corresponding video object and selectively emphasizing the video objects', Aristides does not discuss such a feature. Nevertheless, Hendricks which is in the same field of endeavor of interactive program guides, provides a teaching of an EPG template being stored at a subscriber STT, col. 11, lines 51-67 thru col. 12, lines 1-20.

Hendricks teaches that at least part of the template is to highlight a customer's selection of a program, which reads on the claimed subject matter, see col. 25, lines 35-67 thru col. 26, lines 1-45. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Aristides with the feature of locally storing interactive graphic overlay, at least for the advantage of reducing the need to transmit all of the EPG components at one time, as taught by Hendricks, (col. 16, lines 59-67) which at least saves bandwidth.

The claimed feature of 'presenting the first program guide information' is included in both Aristides, Eyer & Hendricks.

Considering claim 20, since Aristides/Eyer teaches multiple streams of EPG data, as discussed above, the additionally claimed feature of a second program guide information stream, is also necessarily met.

Considering claim 22, the claimed video layer, presented as a video stream, also corresponds with the discussion of Hendricks that the EPG objects are overlayed on the received video stream, see col. 7, lines 15-60;

Considering claims 23-30, the overlay menu graphics in Hendricks meets the claimed subject matter, since it is used to place EPG in their appropriate position on the screen. Furthermore, Hendricks discloses that the overlay menu, covers portions of the TV screen, which reads on x-y border that encloses the video layer, col. 13, lines 14-67 thru col. 14, lines 1-10; col. 16, lines 1-67.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Guo Teaches an original arrangement wherein plurality of video streams with succeeding EPG data are transmitted temporally, Fig. 1 & Fig. 2; col. 5, lines 25-40.

Art Unit: 2424

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REUBEN M. BROWN whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/
Patent Examiner, Art Unit 2424